IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.935 of 2007

Parimala .. Petitioner

vs.

1. The District Collector and
District Magistrate,
Perambalur District, Perambalur.

2. The Secretary,
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus as stated therein.

For Petitioner : Mr.A.Arasu Ganesh
For Respondents : Mr.P.Kumaresan,
Additional Public Prosecutor.

O R D E R

(Delivered by P.D.Dinakaran, J.)

The petitioner, by name Parimala, challenges the impugned order of detention, dated 30.03.2007, detaining her husband by name Manikandan as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. The order of detention, dated 30.03.2007, came to be passed on the basis of the ground case in Crime No.260 of 2006, for alleged commission of offences under Section 394 read with Section 397 IPC. The allegation is that, on 15.12.2006, one Subashchand/complainant, left for Ariyalur from his residence at Villupuram in a Qualis Car, taking with him new gold ornaments and ingots, weighing 600 gms., and cash of Rs.4,50,000/- for purchasing old gold ornaments and 300 gms. of pure gold. While passing Sadaikkanpatti, near a petrol bunk, the car could not proceed further as a

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tanker lorry was standing on the middle of the bridge; hence, the driver stopped the vehicle and the complainant and his brother got down therefrom and requested the Driver to take the vehicle in reverse. At that point of time, the detenu, along with three persons, armed with knife and wooden log came there, damaged the car, stabbed the complainant on his forearm with knife and also assaulted him with a stick on his left wrist and shouted at them to leave that place or else to face death. The complainant, his brother and driver left all the valuables in the car and ran away. The detenu and his associates took the car along with the valuables and decamped. On receipt of a complaint from Subashchand, the case, as referred to above, came to be registered on the file of Kunnam Police Station. On 26.01.2007, the Inspector of Police arrested the detenu. The Detaining Authority, taking note of two adverse cases pending against the detenu and considering his activities, prejudicial to the maintenance of public order, passed the detention order against him.

3. In this Petition, the petitioner seeks for the issuance of a writ of Habeas Corpus to call for the records of the first respondent in Cr.M.P. No.15 of 2007, dated 30.03.2007, quash the same and direct the respondent to produce her husband, viz., detenu Manikandan, now confined in Central Prison, Trichy and set him at liberty.

4. We have perused the materials available on record and considered the submissions made by the counsel appearing on either side.

5. On perusing the records, we find that, in the grounds of detention in English, the name of the detenu has been correctly shown as Manikandan, however, in the grounds of detention in Tamil, while narrating the ground case occurrence, in the place of detenu, name of some other person is wrongly mentioned. In this regard, it is useful to extract the relevant portion, which runs as follows:-

> "திரு வேலு (எ) வேல்முருகனும் அவரது கூட்டாளிகளும் காரின் கதவினை திறந்து எல்லோரும் எறங்கி ஓடுங்கடா இல்லைனா கொலை செயது விடுவோம் யாரேனும் போலீஸ்ல சொன்னால் உங்கள் குடும்பத்தையே அழித்திடுவோம் எனக் கத்தினார்க்ள

Thus, in the grounds of detention furnished in Tamil, instead of detenu Manikandan, some other person by name Velu @ Velmurugan is shown to be the person involved in the unlawful activity. Such wrong description in the grounds of detention supplied to the detenu in Tamil has led to confusion and prejudiced the detenu from making an effective representation. We are of the view that this aspect goes to the root of the matter, thereby vitiating the detention order.

Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed by the first respondent in his proceedings dated 30.03.2007 against the detenu is quashed and the detenu is directed to be

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set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt.,
   Prohibition & Excise Department,
   Secretariat,Chennai 9.

2. The District Collector and
   District Magistrate,
   Perambalur District.

3. The Superintendent,
   Central Prison,
   Tiruchinapalli.

4. The Joint Secretary to Government
   Public (Law & Order) Department
   Fort st, George, Chennai.9

5. The Public Prosecutor,
   High Court, Madras.

GG(CO)
RD 17.10.07

HCP No.935 of 2007.

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